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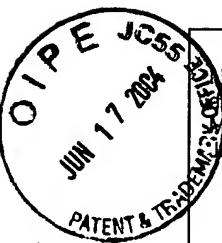
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06-18-04

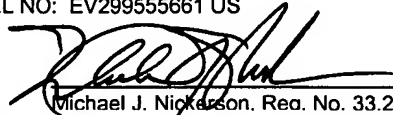
IFW APC

Application No.: 10/077,958

Certificate of Express Mail
I hereby certify that the application identified herein is being deposited with the United States Postal Service, using "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, on June 17, 2004, and is addressed to:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

EXPRESS MAIL LABEL NO: EV299555661 US
Date: June 17, 2004


Michael J. Nickerson, Reg. No. 33.265

PATENT APPLICATION

Attorney Docket No. BTI-22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Michael **WEINER**, et al.

Conf. No.: 3145

Application No.: 10/077,958

Group Art Unit: 3762

Filed: February 19, 2002

Examiner: S. Getzow

Title: **ELECTROMAGNETIC INTERFERENCE IMMUNE TISSUE INVASIVE SYSTEM**

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: MAIL STOP PETITIONS

**APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR
RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF
ALLOWANCE (37 CFR § 1.705)**

Sir:

This is a request for reconsideration of the patent term adjustment of 399 days indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. 154 (b) that was attached to the Notice of Allowance mailed on June 4, 2004. It is respectfully requested that Applicants be afforded a patent term adjustment of 412 days.

The issue fee has not yet been paid.

Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis Under § 1.702 For the Adjustment – Part B." (37 C.F.R. § 1.705 (b) (2) (i) and (ii)).

06/23/2004 CNGUYEN1 00000001 502737 10077958

01 FC:1455 200.00 DA



Any patent granted on this application (37 C.F.R. § 1.705 (b) (2) (iii)) is not subject to a terminal disclaimer.

As to any circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent application as set forth in § 1.704 (37 C.F.R. § 1.705 (b) (2) (iv)): there was none (37 C.F.R. § 1.705 (b) (2) (iv) (B)).

The fee set forth in § 1.18 (e) (\$200), required by 37 C.F.R. 1.705 (b) (2) is paid as follows: Please charge our Deposit Account 50-2737 for the amount of \$200.00.

Authorization is given to charge any additional fees or credit any overpayments to Deposit Account 50-2737.

Respectfully submitted,

Michael J. Nickerson
Attorney for Applicant
Registration No. 33,265
Basch & Nickerson LLP
1777 Penfield Road
Penfield, New York 14526
(585) 899-3970



PATENT APPLICATION

Attorney Docket No. BTI-22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Michael **WEINER**, et al.

Conf. No.: 3145

Application No.: 10/077,958

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Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: MAIL STOP PETITIONS

**STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT: BASIS
UNDER § 1.702 FOR THE ADJUSTMENT (37 C.F.R. § 1.705 (b) (2) (i) AND (ii))**

Sir:

This statement is being submitted in support of the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR §1.705)" to which this statement is attached.

37 C.F.R. § 1.705 (b) (2) (i)

The patent term adjustment on the Determination of Patent Term Adjustment Under 35 U.S.C. 154 (b) that was attached to the Notice of Allowance is 399 days. This determination of 399 days is an error, due to improper "Palm" entries by the USPTO which resulted in an erroneous applicant delay ("APPL") of 13 days. It is respectfully submitted that the correct patent term adjustment under § 1.702 is 412 days.



37 C.F.R. § 1.705 (b) (2) (ii)

The basis on which applicants seek adjustment are as follows:

- (1) Adjustment is sought for the following date: June 27, 2002 (satisfying the requirement under 35 USC 115 of an Oath or Declaration);
- (2) Adjustment to be made for this date: June 5, 2002; and
- (3) Basis: Applicants' Declaration was filed, via Express Mail, on June 5, 2002.

The factual basis for the above adjustment follows.

A Post-Filed Continuation Declaration and Power of Attorney and with a copy of "Notice to File Missing Parts of Non-Provisional Application" were filed on June 5, 2002, as evidenced by the enclosed copy of the postcard receipt therefor.

The June 27, 2002 date for the filing of a proper oath of the Patent Term Adjustment History for application Serial No. 10/077,958 (a copy of which is enclosed) is thus an error. The correct date is June 5, 2002.

The application was thus complete on June 5, 2002, not on June 27, 2002, as erroneously indicated on the Patent Term Adjustment History.

The USPTO delay of 412 days set forth on the enclosed Patent Term Adjustment History is thus the patent term adjustment to which the applicants are entitled.

Respectfully submitted,

Michael J. Nickerson
Attorney for Applicants
Registration No. 33,265
Basch & Nickerson LLP
1777 Penfield Road
Penfield, New York 14526
(585) 899-3970

Enclosures: Copy of postcard receipt dated June 5, 2002
Copy of the Patent Term Adjustment History for application
Serial No. 10/077,958
Copy of Patent Term Adjustment Analysis Summary Report



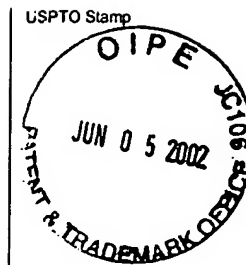
USPTO Acknowledgment Postcard

Serial: 10,077,958 Docket: BTI-22 Date Filed: 2/19/2002 Date Mailed:

6-5-02

Title: AN ELECTROMAGNETIC INTERFERENCE IMMUNE TISSUE INVASIVE SYSTEM

Inventor: MICHAEL L. WEINER ET AL.



The US Patent and Trademark Office hereby acknowledges, and has stamped hereon, the date of receipt of the items checked below:

Application: New Utility Provisional Design ☒ Filed Issued

First Class Mail ☒ Express Mail Label EV092247776US ☒ Certificate of Express Mailing

☒ Drawings 58 sheets ☒ Formal Informal Specification pages Letter ☒ Return Postcard

Oath ☒ Declaration Petition for Extension Information Disclosure Statement Attorney Transmittal Letter

Assignment Assignment Cover Sheet ☒ USPTO Transmittal Form Amendment/ Response Issue Fee

Certificate of Mailing Utility Patent Application Transmittal ☒ Fee Transmittal Non-Publication Form

☒ Check Amount \$ 120.00 Check No 3421 Check Amount Check No _____

Other COPY OF NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION Other
PETITION FOR EXTENSION OF TIME; TRANSMITTAL OF FORMAL DRAWINGS

For fee deficiency resulting from the filing of the papers submitted herein, charge Deposit Account 50-1706.

Contact: Howard J. Greenwald
Telephone: 585-387-0280

☒ Duane C. Basch

Customer No: 27157



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PATENT APPLICATION INFORMATION RETRIEVAL

Patent Term Adjustment (PTA) for publication number: 10/077,958			
			Days
Filing or 371(c) Date:	02-19-2002	USPTO Delay (PTO):	412
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	13
Post-Issue Petitions (days):	+0	Total PTA:	399
USPTO Adjustment (days):	+0	Explanation of Calculations	

Search Options

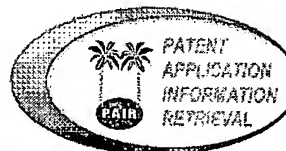
Assignments
Continuity Data
Display References
Image File Wrapper
File History
Publication Review
Published Documents

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
06-04-2004	Mail Notice of Allowance	412	
06-01-2004	Issue Revision Completed	↑	
06-01-2004	Notice of Allowance Data Verification Completed	↑	
06-01-2004	Case Docketed to Examiner in GAU	↑	
06-01-2004	Notice of Allowability	↑	
04-21-2004	IFW TSS Processing by Tech Center Complete	↑	
04-21-2004	Reference capture on IDS	↑	
09-15-2003	Correspondence Address Change	↑	
09-16-2003	Change in Power of Attorney (May Include Associate POA)	↑	
11-08-2002	Information Disclosure Statement (IDS) Filed	↑	
10-11-2002	Preliminary Amendment	↑	
10-10-2002	Miscellaneous Incoming Letter	↑	
07-01-2002	Information Disclosure Statement (IDS) Filed	↑	
08-24-2002	Case Docketed to Examiner in GAU	↑	
07-08-2002	Application Dispatched from OIPE	↑	
06-27-2002	Application Is Now Complete	↑	13
06-05-2002	Additional Application Filing Fees	↑	↑
06-05-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	↑

06-05-2002	Applicant has submitted new drawings to correct Corrected Papers problems	↑	↑
03-14-2002	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	↑
03-01-2002	IFW Scan & PACR Auto Security Review	↑	
02-19-2002	Initial Exam Team nn	↑	



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PATENT APPLICATION INFORMATION RETRIEVAL

Search results for application number: 10/077,958			
Application Number:	10/077,958	Customer Number:	37211
Filing or 371(c) Date:	02-19-2002	Status:	Allowed – Notice of Allowance Mailed – Issue Revision Completed
Application Type:	Utility	Status Date:	06-04-2004
Examiner Name:	GETZOW, SCOTT M	Location:	ELECTRONIC
Group Art Unit:	3762	Location Date:	-
Confirmation Number:	3145	Earliest Publication No:	US 2002-0143258 A1
Attorney Docket Number:	BTI-22	Earliest Publication Date:	10-03-2002
Class/ Sub-Class:	607/002	Patent Number:	-
First Named Inventor:	Michael Weiner, Webster, NY (US)	Issue Date of Patent:	-
Title Of Invention:	ELECTROMAGNETIC INTERFERENCE IMMUNE TISSUE INVASIVE SYSTEM		

Search Options

Assignments
Continuity Data
Display References
Image File Wrapper
Patent Term Adjustment History
Publication Review
Published Documents

File History	
Date	Contents Description
06-04-2004	Mail Notice of Allowance
06-01-2004	Issue Revision Completed
06-01-2004	Notice of Allowance Data Verification Completed
06-01-2004	Case Docketed to Examiner in GAU
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09-15-2003	Correspondence Address Change
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10-11-2002	Preliminary Amendment
10-10-2002	Miscellaneous Incoming Letter
07-01-2002	Information Disclosure Statement (IDS) Filed
08-24-2002	Case Docketed to Examiner in GAU
07-08-2002	Application Dispatched from OIPE
06-27-2002	Application Is Now Complete
06-05-2002	Additional Application Filing Fees
06-05-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic
06-05-2002	Applicant has submitted new drawings to correct Corrected Papers problems
03-14-2002	Notice Mailed--Application Incomplete--Filing Date Assigned
03-01-2002	IFW Scan & PACR Auto Security Review
02-19-2002	Initial Exam Team nn

Analysis Summary Report

APPLICATION INFORMATION			
Docket Number:	BTI-22	Analysis Generated:	06/16/2004 08:58:44 PM ET
Application Number:	10/077,958	User Name:	Nickerson, Michael
Filing Date:	02/19/2002	Firm/Company Name:	Basch & Nickerson LLP
Title/Inventors:	ELECTROMAGNETIC INTERFERENCE IMMUNE TISSUE INVASIVE SYSTEM; Michael Weiner, Webster, NY (US)		
		Attorney/Agent Comments:	MJN 06/16/04

AIPA TERM ANALYSIS SUMMARY	
Earliest Referenced Application Date:	02 / 19 / 2002
Filing Date (US National Application):	02 / 19 / 2002
Net Adjustment Credits:	412 Days
Net Adjustment Debits:	0 Days
Net Patent Term Adjustment:	412 Days
AIPA Patent Term End Date:	04 / 07 / 2023 (1)
(1) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 02/19/2022.	

RULE APPLICATION SUMMARY						
Event	Rule Invoked	Related Event	Excluded Days	Debit Days	Credit Days	
A 02/19/2002 Filing Date under 35 USC 111(a) (US National Application)	14-Month PTO First Action PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	<i>First PTO Action:</i> 06/04/2004 Notice of Allowance under 35 USC 151	0	0	412	
B 02/19/2002 Filing Date under 35 USC 111(a) (US National Application)	3-Year PTO Issue of Patent PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b). You have elected to analyze this rule under the PTO Interpretation. Under this interpretation, the last day of the three year period is 02/19/2005. Both interpretations produce the same result.	<i>Issue Date:</i> 12/14/2004 Issue Date	0	0	0	
C 03/14/2002 Notice to File Missing Parts (nonprovisional application)	3-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	<i>Applicant Response:</i> 06/05/2002 Oath or Declaration Filed (Original or Supplemental)	0	0	0	

<p>D</p> <p>06/04/2004 Notice of Allowance under 35 USC 151</p>	<p><u>3-Month Applicant Response to Notice of Action</u></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i></p> <p>09/04/2004 Issue Fee Payment under 35 USC 151</p>	<p>0</p>	<p>0</p>	<p>0</p>
<p>E</p> <p>09/04/2004 Issue Fee Payment under 35 USC 151</p>	<p><u>4-Month PTO Issue of Patent</u></p> <p>PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).</p>	<p><i>Issue Date:</i></p> <p>12/14/2004 Issue Date</p>	<p>0</p>	<p>0</p>	<p>0</p>
<p>Total Exclusion, Debit, and Credit Days</p>			<p>0</p>	<p>0</p>	<p>412</p>
<p>Overlap Days</p>			<p>0</p>	<p>0</p>	<p>0</p>
<p>Net Exclusion, Debit, and Credit Days</p>			<p>0</p>	<p>0</p>	<p>412</p>
<p>Net Patent Term Adjustment Days</p>			<p>0</p>	<p>0</p>	<p>412</p>
<p>The term of this patent ends on 04/07/2023 (2)</p> <p>(2) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 02/19/2022.</p>					

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 200.00

Complete if Known

Application Number	10/077,958
Filing Date	02/19/2002
First Named Inventor	Michael Weiner
Examiner Name	S. Getzow
Art Unit	3762
Attorney Docket No.	BTI-22

METHOD OF PAYMENT (check all that apply)
☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☒ Deposit Account:

Deposit Account Number	50-2737
Deposit Account Name	Basch & Nickerson LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		-20** =		X		=	
Independent Claims		-3** =		X		=	
Multiple Dependent						=	

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					(\$)


**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) 37 CFR 1.18 (e)					200.00
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3)					(\$) 200.00

SUBMITTED BY

(Complete (if applicable))

Name (Print/Type)	Michael J. Nickerson	Registration No. (Attorney/Agent)	33,265	Telephone	585-899-3970
Signature		Date	June 17, 2004		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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